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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,230	03/19/2002	Kazuo Hiraguchi	Q69036	1692

7590 03/10/2005

Sughrue Mion Zinn Macpeak & Seas
2100 Pennsylvania Avenue NW
Washington, DC 20037-3213

EXAMINER	
HAUGLAND, SCOTT J	

ART UNIT	PAPER NUMBER
3654	

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/088,230	HIRAGUCHI ET AL.	
	Examiner	Art Unit	
	Scott Haugland	3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 January 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *6-13 and 15-25* is/are pending in the application.

4a) Of the above claim(s) *15 and 16* is/are withdrawn from consideration.

5)☒ Claim(s) *12 and 13* is/are allowed.

6)☒ Claim(s) *6,9 and 17-25* is/are rejected.

7)☒ Claim(s) *7,8,10 and 11* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *19 March 2002 and 17 December 2003* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/5/05 has been entered.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the recording and reproducing apparatus recited in claim 6, line 2, claim 12, line 2, claim 13, line 2, claim 17, line 2, claim 23, line 2, claim 24, line 2, and claim 25, line 2 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet,

and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 19 is objected to because of the following informalities: In claim 19, line 3, "have having" should be --halves has--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6-13 and 17-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The metes and bounds of the claims are not clear since it is not clear if a single cassette or a collection of cassettes is claimed in combination with a recording and

reproducing apparatus and, if a collection is claimed, how the cassettes of that collection are physically, structurally, or cooperatively related. E.g., would a cassette having the claimed dimensions relative to an existing cassette meet the claims?

The language of claim 17, lines 14-15, claim 23, lines 15-16, claim 24, lines 15-16, and claim 25, lines 15-16 should be replaced with language such as "positioning marks provided in a first one of the magnetic tape cassettes and at least one additional one of the magnetic tape cassettes for receiving ..." since the magnetic tape cassettes were previously recited in the claims.

In claim 17, lines 22 and 24, "a radially" should be "the radially" since radially inner portions were previously recited.

Claim Rejections - 35 USC § 102, § 103

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 6, 9, 17, and 20 are rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over the admitted prior art of page 1, line 7 - page 7, line 19 of the specification and Figs. 10-12.

The admitted prior art discloses magnetic tape cassettes adapted to be operated in a recording and reproducing apparatus that can operate cassettes of different sizes (p. 3, line 15 - p. 4, line 15) including L, M, and S cassettes (page 4, lines 4-15) comprising (a) magnetic tape, (b) tape reels 70, 80 having upper flanges 71, 81, lower flanges 72, 82, and bosses 73, 83, (c) an upper cassette half 51, (d) a lower cassette half 52 having ribs 59a, 59b formed at the front end of the lower half, (e) tape running openings 57a, 57b, (f) guide members 58a, 58b, and (g) positioning marks (positioning holes) 90a, 90b. The distance between positioning marks 90a, 90b are the same in cassettes of different sizes (p. 6, lines 16-21). The cassettes have the same vertical length and varying horizontal lengths (p. 3, lines 15-18).

It appears that the S, M, and L cassettes of the admitted prior art have the same dimensions except for horizontal length and reel diameter (p. 3, line 15 - page 4, line 15 of the specification) and that the difference in height between the radially inner portions of the reels and the ribs 59a, 59b are the same in all of these cassettes.

Assuming, that there is no such disclosure in the admitted prior art, it would have been obvious to make the difference between the height of the radially inner portion of the flanges and the height of the ribs of one cassette the same as in the other cassettes to provide the same clearance between the tape and ribs so as to produce similar results in all of the cassette. Similar results would be expected since the cassettes are

required to differ only in length and reel size. An ordinary artisan would not have had reason to vary the reel/rib height difference when changing only the cassette length and reel diameters.

Allowable Subject Matter

Claims 7, 8, 10, and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 12 and 13 are allowed.

Claims 18, 19, 21, and 22 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 23-25 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Response to Arguments

Applicants arguments filed 1/5/05 have been fully considered but they are not persuasive.

Applicants argue that the claims are not indefinite and points to U.S. Patent No. 4,158,871 as an example of a similar situation. However, the application does not disclose a kit as does the cited patent and reading the claims in light of the specification

does not clarify them. It is still not clear when a person would be infringing the claims of the application.

Applicants argue that the admitted prior art teaches clearances (differences between the heights of the radially inner portions of the reels and the tops of the ribs) that are positioned differently on different sizes of cassettes. While the clearance on LL cassettes of the admitted prior art may be different that those of S and L cassettes, it appears from the description of the prior art that the clearances of the S, M, and L cassettes are the same as noted in the rejection above. In any case, it is seen to have been obvious to make the clearances the same on these cassettes (S, M, and L sizes) of the admitted prior art since only length and reel diameter need to be varied to provide different capacities. The same width of tape is used and should be accommodated similarly in each of the cassettes. Any pair of these cassettes (S, M, and L) meet the claim limitation of a plurality of sizes of magnetic tape cassettes.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hasegawa et al (U.S. Patent No. 5,316,236) is cited to further show a tape cassette drive and cassettes of different sizes usable in it.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Haugland whose telephone number is (703) 305-6498. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (703) 308-2688. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sjh
2/24/05

Kathy Matecki

KATHY MATECKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600